

REMARKS

Claims 46 and 57 have been canceled, without prejudice, and claims 47 and 58 have been amended to recite SEQ ID NOS. as required by the Examiner. The amendments to the claims are fully supported by the present specification and include no new matter.

In view of the above, applicant submits that the above-identified application complies with the sequence rules.

Restriction has been required between botulinum toxins serotypes A, B, C₁, D, E, F and G; and between SEQ ID Nos. 1-18. Applicant elects botulinum toxin serotype A and SEQ ID No. 2. However, applicant traverses this restriction requirement.

Since all botulinum toxins are believed to operate by a similar mechanism of action, a search performed for botulinum toxin type A would encompass all of the botulinum toxin serotypes. For example, it is well known that "The botulinum toxins comprise a family of pharmacologically similar toxins that block acetylcholine release from peripheral nerves and cause flaccid paralysis. All of the serotypes of the toxin can poison humans and other animals...", Page 81, left hand side of Schantz, E.J., et al, *Properties and use of Botulinum Toxin and Other Microbial Neurotoxins in Medicine*, Microbiol Rev., 56;80-99:1992 (copy provided with response to Office Action mailed September 27, 2002).


In order to include each of the 18 sequence listings in a generic sequence search, it is only necessary to search SEQ ID NO. 2 with a D (aspartic acid) and a Q (glutamine) residue each substituted at position 2 and an M (methionine) and I (isoleucine) each substituted at positions 6 and 7. Therefore,

applicant submits that it is not an undue burden on the Examiner to perform a search for all 18 SEQ IDs. In addition, applicants submit that certain SEQ IDs are necessarily included in a search of SEQ ID NO. 2, for example, SEQ ID NO. 7. Applicant submits that such certain SEQ IDs should be included in this election of SEQ ID NO. 2.

Based on the above, applicant respectfully requests that all of the botulinum toxin serotypes A, B, C, D, E, F and G, and all the SEQ ID Nos. 1-18 be considered and examined in the above-identified application.

Applicant requests early and favorable action in the above-identified application.

Respectfully submitted,



Frank J. Uxa
Attorney for Applicants
Reg. No. 25,612
4 Venture, Suite 300
Irvine, CA 92618
(949) 450-1750
Facsimile (494) 450-1764